

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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ADVANCED FRICTION MATERIALS CO.,

Plaintiff/Counter-Defendant-  
Appellee/Cross-Appellant,

v

STERLING-DETROIT CO.,

Defendant/Counter-Plaintiff-  
Appellant/Cross-Appellee.

UNPUBLISHED  
December 13,2002

No. 216543  
Oakland Circuit Court  
LC No. 95-510130-CK

ON REMAND

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Before: Neff, P.J., and Holbrook, Jr., and Jansen, JJ.

JANSEN, J. (*concurring*).

I concur in the result, but write separately because I believe that the case should be analyzed differently. As set forth in *Kelly v Builders Square*, 465 Mich 29, 41; 632 NW2d 912 (2001), “[a] court may grant a new trial following a jury verdict only for one of the reasons stated in MCR 2.611(A)(1).” In this case, MCR 2.611(A)(1)(e) [“A verdict or decision . . . contrary to law”], not MCR 2.612(C)(1)(f), provides the proper legal basis for analyzing whether a new trial can be granted on the basis that the verdict was inconsistent or incongruous. That is so because an inconsistent or incongruous verdict or decision is properly considered to be “contrary to law.” Thus, there is no need to go through MCR 2.611(A)(1)(h) to reach MCR 2.612(C)(1)(f) to resolve this case. Here, the trial court erred in granting a new trial because the jury verdict was not inconsistent as a matter of law, and thus not “contrary to law” under MCR 2.611(A)(1)(e).

/s/ Kathleen Jansen